

**MEDICAL EXAMINING BOARD
MINUTES
MAY 19, 2010**

PRESENT: Carolyn Bronston, LaMarr Franklin, Jude Genereaux, Jerold Harter, Sujatha Kailas, Jack Lockhart, Raymond Mager, Suresh Misra, Ian Munro (arrived 8:21), Gene Musser, Sandra Osborn, Sheldon Wasserman (arrived 8:12)

STAFF: Tom Ryan, Bureau Director; Michael Berndt, Legal Counsel; Karen Rude-Evans, Bureau Assistant; other DRL staff

GUESTS: Anne Hletko, Council on Physician Assistants; Mark Grapentine, WMS; Jeremy Levin, RWHC; Judy Warmuth, WHA

CALL TO ORDER

Sujatha Kailas, Chair, called the meeting to order at 8:03 a.m. A quorum of ten (10) members was confirmed.

APPROVAL OF AGENDA

Amendments:

- Item B – Minutes of April 21, 2010 – insert after page 6
- Correspondence from Sujatha Kailas regarding AB 877/SB 635 – insert after page 17
- Addition to Item H (pages 43-50) - Summary of Board Self Evaluation Questionnaire
- New format for Regulatory Digest – insert after page 50
- Public comment for Medical Digest – insert after page 50
- Presentation of Interim Order for Comprehensive Clinical Performance Assessment in the Matter of Disciplinary Proceedings Against Michael A. Dehner, MD, By Attorney Sandra Nowak – Case Advisor – Sujatha Kailas – insert after page 272
- Item J – Informational Items - Report of Pending Death Cases – Closed Session item at the end of the agenda.

MOTION: Suresh Misra moved, seconded by Gene Musser, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF APRIL 21, 2010

MOTION: Carolyn Bronston moved, seconded by Suresh Misra, to approve the minutes of April 21, 2010 as written. Motion carried unanimously.

CASE PRESENTATIONS

SCOTT H CONANT, MD

Attorney Arthur Thexton presented a Proposed Stipulation in the disciplinary proceedings against Scott H. Conant, MD. This matter will be deliberated in closed session.

DAVID B GATTUSO, MD

Attorney Arthur Thexton presented a Proposed Stipulation in the disciplinary proceedings against David B. Gattuso, MD. This matter will be deliberated in closed session.

FREDERICK W KNOCH, III, MD

Attorney Pamela Stach presented a Proposed Stipulation in the disciplinary proceedings against Frederick W. Knoch, III, MD. This matter will be deliberated in closed session.

JOHN E DOWNS, MD

Attorney Pamela Stach presented a Proposed Stipulation in the disciplinary proceedings against John Downs, MD. This matter will be deliberated in closed session.

ITEMS RECEIVED AFTER MAILING OF AGENDA

PRESENTATION OF PROPOSED STIPULATIONS AND FINAL DECISIONS AND ORDERS

MICHAEL A DEHNER, MD

Attorney Sandra Nowak presented a Proposed Stipulation in the disciplinary proceedings against Michael A. Dehner, MD. This matter will be deliberated in closed session.

PRESENTATION OF PROPOSED DECISIONS

None.

PETITIONS FOR RE-HEARING

None.

PETITIONS FOR SUMMARY SUSPENSION

None.

PETITIONS FOR EXTENSION OF TIME

None.

REQUESTS FOR DISCIPLINARY PROCEEDING PRESENTATIONS

None.

APPEARANCES

None.

SPEAKING ENGAGEMENT, TRAVEL AND PUBLIC RELATION REQUESTS

None.

MATTERS FOR BOARD DISCUSSION

**SENATE BILL 635/ASSEMBLY BILL 877 RELATING TO DUTIES OF PHYSICIANS
AND OF THE MEDICAL EXAMINING BOARD – DISCUSSION OF CONTENT AND
IMPLEMENTATION**

This legislation was signed into law yesterday (Wisconsin Act 382) by Governor Doyle. Gene Musser and Tom Ryan attended the bill signing ceremony. The Board had a preliminary discussion of their role and duties related to this law. Sujatha Kailas wants an email sent next week to all Wisconsin licensed physicians to notify them of this legislation. Gene Musser, Tom Ryan, and Michael Berndt will collaborate to draft more detailed correspondence for dissemination in the near future. Further discussion is necessary at succeeding meetings.

FSMB ANNUAL MEETING REPORT

The FSMB Annual Meeting was held April 22-24, 2010 in Chicago. Sujatha Kailas, Sandra Osborn, Gene Musser, Carolyn Bronston, Suresh Misra and Sheldon Wasserman all attended and gave a report to the Board.

MAINTENANCE OF LICENSURE AND RE-DESIGNING CONTINUING EDUCATION

The Board discussed maintenance of licensure and continuing education. The FSMB House of Delegates issued a report, "Maintenance of Licensure" to help lay the groundwork for strengthening the medical licensure renewal process by implementing new standards for continuing education. Sujatha Kailas appointed Gene Musser, Suresh Misra and Carolyn Bronston to the Evaluation Committee. The Committee will meet every other month and will report back to the full Board.

LICENSING FOREIGN TRAINED PHYSICIANS

This information regarding St. Jude's licensing was noted.

ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION (ACGME) WAIVER REQUEST APPEARANCES - WIS ADMIN CODE MED § 1.02(3) – BOARD DISCUSSION OF GUIDELINES FOR STAFF

Credentialing staff will discontinue sending application materials to the credentialing liaisons. Application materials will be submitted to the Board for review and the Board will determine whether to schedule the applicant for an interview. Interviews may be conducted in person, by phone or video conference.

Applicants for the visiting professor license must be scheduled for an oral interview. The credentialing liaison will decide if the interview should be in person, by phone or video conference.

WIS ADMIN CODE MED § 10.02(2)(S) DISCUSSION OF POSSIBLE SCOPE STATEMENT

This item was deferred to a future meeting.

BOARD SELF-EVALUATION – REVIEW OF SUGGESTIONS AND DISCUSSION

Sujatha Kailas gave an overview of the results of the Board self-evaluation questionnaire. The Board wants to pursue developing its own website as the consensus is the DRL website is difficult to navigate. The Board members asked if the red folder items could be received earlier, and Tom Ryan stated that some of the items are received at the last minute. The IT Department is setting up SharePoint, which will allow agendas and red folder items to be posted on the site. This will provide board members immediate access to the documents.

CASE ADVISOR GUIDELINES

DOE Administrator Jim Parker addressed the Board regarding the case advisor guidelines memo that was recently sent to all boards.

MEDICAL EXAMINING BOARD BUDGET

There are a number of items that the Board may consider as possible budget issue papers, including increased travel opportunities, consideration of a full time bureau assistant, additional staff and supplies needed for hearings, including the use of expert testimony. Michael Berndt is the Department's General Counsel and also works with the MEB. The Board discussed the possibility of a designated legal counsel.

Dr. Kailas asked that the current budget be available at the June meeting for review.

ADMINISTRATIVE REPORT

Appointment of Examiners for Oral Examinations July-December 2010

July – Mager, Munro, Musser, Osborn

August – Kailas, Mager, Misra, Musser

September – Kailas, Mager, Osborn, Wasserman

***October**

November – Kailas, Munro, Musser, Osborn

December – Mager, Musser, Osborn, Wasserman

* The October meeting will be held at the Medical College of Wisconsin in Milwaukee. Oral examinations will not be scheduled.

Appointment of Screening Panel July-December 2010

July – Genereaux, Harter, Misra

August – Bronston, Mager, Musser

September – Franklin, Mager, Osborn

October – Bronston, Harter, Wasserman

November – Genereaux, Kailas, Munro

December – Franklin, Harter, Munro

DRL Staff Updates

No updates at this time.

Board Meeting at Medical College of Wisconsin – October 20, 2010

The October 20, 2010 Board meeting will be held at the Medical College of Wisconsin in Milwaukee. Tom Ryan will extend invitations to the Senator and the Representative from that district.

Report on Physician Workforce Webinar

Noted.

Update on ARRA Portability Grant

Tom Ryan had meeting in Chicago with the executive directors from the other states. The attendees will review their state's requirements with reciprocity as a goal, and any possible barriers that may exist regarding portability. Some concerns are enforcement jurisdiction and open records between states.

IPP RULE WRITING UPDATE

The IPP Workforce Committee has completed its work and also met with Secretary Jackson and other DRL staff. A few minor changes were made to the recommendations at that time. A meeting with the Small Business Advisory Committee should take place within the next several weeks.

MEB ANNUAL REPORT TEMPLATE – BOARD REVIEW FOR APPROVAL

Tom Ryan asked the Board to review the template for the annual report. Mr. Ryan is gathering data for the last three months for the initial report.

MOTION: Jerold Harter moved, seconded by Carolyn Bronston, to approve the MEB annual report template. Motion carried unanimously.

SCREENING PANEL REPORT

Jude Genereaux reported the screening panel reviewed twenty four (24) cases, opened four (4) cases and sent three (3) ten-day letters.

LEGISLATIVE REPORT

The next legislative session begins January 2011.

SUMMER 2010 REGULATORY DIGEST - REVIEW ARTICLE WRITING ASSIGNMENT AND TIMELINE

The Board reviewed the format and information for the upcoming Digest. Tom Ryan asked the Board members to send all article submissions to him and Dr. Kailas for review. An initial draft will be reviewed at the next meeting.

INFORMATIONAL ITEMS

Noted.

OTHER BUSINESS

None.

PUBLIC COMMENTS

None.

RECESS TO CLOSED SESSION

MOTION: Ian Munro moved, seconded by Sheldon Wasserman, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call: Carolyn Bronston-yes; LaMarr Franklin-yes; Jude Genereaux-yes; Jerold Harter-yes; Sujatha Kailas-yes; Jack Lockhart-yes; Raymond Mager-yes; Suresh Misra-yes; Ian Munro –yes; Gene Musser-yes; Sandra Osborn-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open session recessed at 11:57 a.m.

RECONVENE IN OPEN SESSION

MOTION: LaMarr Franklin moved, seconded by Ian Munro, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 2:23 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

MOTION: Carolyn Osborn moved, seconded by Ian Munro, to reaffirm all motions made in closed session. Motion carried unanimously.

PROPOSED DECISION AND ORDER

JACQUELINE M IRLAND, MD

MOTION: Jude Genereaux moved, seconded by Sandra Osborn, to adopt the ALJ Decision of Fees and Costs. Motion carried. Ian Munro, Gene Musser and Sheldon Wasserman were excused during deliberation and abstained from voting. Legal Counsel Michael Berndt was excused during deliberation. Attorney Colleen Baird was acting Legal Counsel during deliberation.

MOTION: Sandra Osborn moved, seconded by Jerold Harter, to adopt the ALJ Supplemental Order on Costs. Motion carried. Ian Munro, Gene Musser and Sheldon Wasserman were excused during deliberation and abstained from voting. Legal Counsel Michael Berndt was excused during deliberation. Attorney Colleen Baird was acting Legal Counsel during deliberation.

MOTION: Jerold Harter moved, seconded by Carolyn Bronston, to amend the Final Decision and Order in the disciplinary proceedings against Jacqueline M. Irland, MD, dated April 21, 2010, to add the Final Ruling on Petition for Fees and Costs and Order and the Final Ruling on Supplemental Fees and Costs thereby creating a single Final Order from which the time period for rehearing or a petition for judicial review shall be based. Motion carried. Ian Munro, Gene Musser and Sheldon Wasserman were excused during deliberation and abstained from voting. Legal Counsel Michael Berndt was excused during deliberation. Attorney Colleen Baird was acting Legal Counsel during deliberation.

PROPOSED STIPULATIONS

SCOTT H CONANT, MD

MOTION: Gene Musser moved, seconded by LaMarr Franklin, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Scott H. Conant, MD. Motion carried unanimously.

DAVID B GATTUSO, MD

MOTION: LaMarr Franklin moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against David B. Gattuso, MD. Motion carried unanimously.

FREDERICK W KNOCH, III, MD

MOTION: Suresh Misra moved, seconded by LaMarr Franklin, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Frederick W. Knoch, III, MD. Motion carried unanimously.

JOHN E DOWNS, MD

MOTION: Gene Musser moved, seconded by Sandra Osborn, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against John E. Downs, MD. Motion carried by 9 yes votes to 3 no votes.

MICHAEL A DEHNER, MD

MOTION: Raymond Mager moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Michael A. Dehner, MD. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

07 MED 248

MOTION: Jerold Harter moved, seconded by Ian Munro, to issue an administrative warning in case **07 MED 248**. Motion carried unanimously.

09 MED 209

MOTION: Raymond Mager moved, seconded by LaMarr Franklin, to issue an administrative warning in case **09 MED 209**. Motion carried unanimously.

DELIBERATION OF COMPLAINT

07 MED 112

MOTION: Carolyn Bronston moved, seconded by Raymond Mager, to find probable cause to issue a complaint in case **07 MED 112**. Motion carried unanimously.

MONITORING

KENNETH SPARR, MD

MOTION: Ian Munro moved, seconded by Jerold Harter, to grant the request for a full and unrestricted license to Kenneth Sparr, MD. Motion carried unanimously.

STEPHEN MASON, MD

MOTION: Jerold Harter moved, seconded by Ian Munro, to grant the request for termination of drug testing to Stephen Mason, MD. The Board will consider removing the limitation on practice settings with proof passing the SPX examination. Motion carried. Suresh Misra abstained.

KARL HOFFMAN, MD

MOTION: Jack Lockhart moved, seconded by Suresh Misra, to grant the request for a full and unrestricted license to Karl Hoffman, MD. Motion carried unanimously.

JENNIFER NOLDEN, PA

MOTION: Jerold Harter moved, seconded by Jack Lockhart, to grant the request for the removal of the prescription limitation to Jennifer Nolden, PA. Motion carried unanimously.

CASE CLOSINGS

09 MED 211

MOTION: LaMarr Franklin moved, seconded by Ian Munro, to close case **09 MED 211** for no violation. Motion carried unanimously.

09 MED 433

MOTION: Suresh Misra moved, seconded by LaMarr Franklin, to close case **09 MED 433** for no violation. Motion carried unanimously.

08 MED 156

MOTION: Suresh Misra moved, seconded by Ian Munro, to close case **08 MED 156** for no violation. Motion carried unanimously.

09 MED 138

MOTION: LaMarr Franklin moved, seconded by Raymond Mager, to close case **09 MED 138** for no violation. Motion carried unanimously.

09 MED 330

MOTION: Suresh Misra moved, seconded by Ian Munro, to close case **09 MED 330** for insufficient evidence. Motion carried unanimously.

09 MED 280

MOTION: Carolyn Bronston moved, seconded by Suresh Misra, to close case **09 MED 280** for no violation. Motion carried. Sheldon Wasserman abstained.

09 MED 107

MOTION: Jude Genereaux moved, seconded by Jerold Harter, to close case **09 MED 107** for no violation. Motion carried unanimously.

2108 MED 038

MOTION: Suresh Misra moved, seconded by Ian Munro, to close case **08 MED 038** for compliance gained. Motion carried unanimously.

09 MED 390

MOTION: Raymond Mager moved, seconded by Jerold Harter, to close case **09 MED 390** for no violation. Motion carried unanimously.

07 MED 268

MOTION: Jude Genereaux moved, seconded by Jerold Harter, to close case **07 MED 268** for no violation. Motion carried unanimously.

07 MED 248

MOTION: LaMarr Franklin moved, seconded by Jerold Harter, to close case **07 MED 248** against S.B. and E.B. for no violation. Motion carried. Ian Munro abstained.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Suresh Misra moved, seconded by Ian Munro, to ratify all licenses and certificates presented. Motion carried unanimously.

ADJOURNMENT

MOTION: Sandra Osborn moved, seconded by Ian Munro, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:24 p.m.

THE NEXT BOARD MEETING IS JUNE 16, 2010